MYSORE ACT No. XLVI OF 1943.

THE MYSORE BORSTAL SCHOOLS ACT, 1943.

An Act to provide for the Establishment and Regulation of Borstal Schools in the [1][State of Mysore except Bellary District].

(*Received the assent of His Highness the Maharaja on the 28th day of July* 1943.)

WHEREAS it is expedient to provide for the establishment and regulation of Borstal Schools in the [1][State of Mysore except Bellary District];

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Shrot title.

1. This Act may be called the Mysore Borstal Schools Act, 1943.

Extent and commencement.

2. (1) This Act shall apply to the [1][whole of the State of Mysore except Bellary District].

(2) It shall come into operation in any local area in the [1][State of Mysore except Bellary District] on such date as the Government may, by notification in the official Gazette, appoint in this behalf.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Borstal School" means a place in which offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime ;

(*b*) "Inspector-General" means the Inspector-General of Prisons and includes any officer appointed by the

1. See the Mysore Adaptation of Laws Order, 1953.

(*Part II—Committal*)

Government to perform all or any of the duties imposed by this Act on the Inspector-General ; and

(*c*) "Prescribed" means prescribed by rules made under this Act.

(*d*) "Prohibited Article" means an article, the introduction or removal of which into, or out of, any Borstal Institution is prohibited by any rule under this Act.

Establishment of Borstal Schools.

4. (1) For the purposes of this Act, the Government may establish one or more Borstal Schools.

(2) For every Borstal School, a Visiting Committee shall be appointed in such manner as may be prescribed.

Application of the Prisons Act.

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the Prisons Act, and the Mysore Prisoner's Testimony Act, 1894, and the rules framed thereunder shall apply in the case of every Borstal School established under this Act as if it were a prison and the inmates prisoners.

PART II.

Committal to Borstal Schools.

Court may pass order for detention in a Borstal School.

6. When an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish sucurity under Chapter VIII of the Code of Criminal Procedure, 1904, whether any previous conviction is proved against him or not, and it appears to the Court—

(*a*) that the offender is not less than sixteen or, in any district or place in which the Mysore Children Act, 1943, is not in operation, less than fifteen nor more than twenty-one years of age ; and

(*b*) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that the offender should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation ; it shall be lawful for the court, if empowered in this

behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under Section 123 of the Code of Criminal Procedure, 1904, an order for the detention of the offender in a Borstal School for a term, which shall not be less than three years and shall not exceed five years, but in no case extending beyond the date on which the offender will, in the opinion of the court, attain the age of twenty-three years :

Provided that before passing such an order the court shall give an opportunity to the parents or guardians of the said offender to be heard, and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in a Borstal School, and shall be satisfied that the character, state of health and the mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid :

Provided further that no person who has been previously detained for the whole period prescribed in an order of detention or who has been transferred to prison under Section 13 of this Act, shall again be ordered to be detained.

Power of Government to exempt.

7. The Government may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal School.

Courts empowered to pass order for detention.

8. The powers conferred on courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a Sub-Divisional Magistrate, or a Magistrate of the First Class, and may be exercised by such courts whether the case comes before them originally, or on appeal, or in revision.

Procedure when Magistrate is not empowered to pass an order under this Act.

9. (1) When any Magistrate not empowered to pass an order for detention under this Act is of opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of

Criminal Procedure, 1904, is a proper person to be detained in a Borstal School, he may without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate to whom he is subordinate.

(2) The District Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act.

(3) The District Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further inquiry (if any) as he may think fit, and may pass such order for the detention of the offender in a Borstal School, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation of powers conferred by Section 6.

10. Any offender detained in a Borstal School for failure to furnish security when ordered to do so under Section 106 or Section 118 of the Code of Criminal Procedure, 1904, shall be released on furnishing such security or on the passing of an order under Section 124 of the said Code.

Transfer from prison to Borstal School.

11. The Inspector-General may, if satisfied that a person undergoing transportation or imprisonment in consequence of a sentence passed either before or after the commencement of this Act, being within the limits of age within which persons may be ordered to be detained in a Borstal School under this Act, might with advantage be detained in such school, direct him to be transferred from prison to a Borstal School, there to serve the whole or any part of the unexpired residue of his sentence, and whilst detained in such a school, the provisions of this Act shall apply to such person as if he had been originally ordered to be detained in a Borstal School.

Preliminary enquiry and findings as to age of offender.

12. (1) Before passing a sentence under Section 6, the court shall enquire into the age of the offender and after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be.

(2) A similar enquiry shall be made and finding recorded by every Magistrate not empowered to pass sentence under Section 6 before submitting his proceedings and forwarding of the offender to the District Magistrate as required by sub-section (1) of Section 9.

Transfer of incorrigibles, etc., to prison.

13. (1) Where an offender detained in a Borstal School escapes or is reported to the Government by the Inspector-General in consultation with the Visiting Committee to be incorrigible or to exercise a bad influence on the other inmates of the school, the Government may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Government may determine, but in no case exceeding the shortest of the following three periods :—

(*a*) the unexpired residue of the term of detention ; or

(*b*) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal School ;

(*c*) the maximum period of imprisonment which the court that tried him had authority to award under the Code of Criminal Procedure, 1904.

(2) Such offender may be confined in any prison in Mysore by warrant under the hand of a Secretary to Government, and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

Government to determine the Borstal School in which a person shall be detained.

14. (1) Every offender ordered to be detained in a Borstal School shall be detained in such Borstal School as the Government may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided that if accommodation in a Borstal School is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of

a prison as the Government may direct, until he can be sent to a Borstal School. The period of detention so undergone shall be treated as detention in a Borstal School.

Transfer from one school to another.

(2) The Inspector-General may order the transfer of any offender from any one Borstal School to any other Borstal School, provided that the whole period of his detention in a Borstal School shall not be increased by such transfer.

PART III.

Release on License.

Power to release on license.

15. (1) Subject to the prescribed conditions, the Inspector-General may, on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal School, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal School and grant him a written license in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority or such—

(*a*) officer of Government,
(*b*) secular institution,
(*c*) religious society, or
(*d*) responsible person,

as may be approved by the Inspector-General and willing to take charge of the offender.

(2) A license under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal School, unless sooner revoked.

(3) The period during which an offender is absent from a Borstal School during the continuance of a license granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

Revocation of license.

16. (1) Subject to the prescribed conditions, the Inspector-General may at any time, and shall, at the request of the institution, society or person under whose supervision and authority the offender has by license been

permitted to live, revoke a license granted under Section 15, and upon such revocation the offender shall be detained in a Borstal School until the expiry of the term for which he was ordered to be detained in such school.

(2) If an offender removes himself from the supervision of the institution, society or person under which he was by license permitted to live, his license shall be deemed to have been revoked from the date on which he has so removed himself.

Subsequent supervision.

17. (1) When the Inspector-General and the Visiting Committee report that the conduct of any offender detained in a Borstal School has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the Government may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to the rules made under this Act, may direct.

(2) The Government may also direct that any offender who is under supervision in accordance with sub-section (1) shall again be detained in a Borstal School for such period as it may think fit, provided that the total period of detention under this section shall not exceed one year.

Period of detention.

18. No person shall be detained in a Borstal School after he has, in the opinion of the Government, attained the age of twenty-three years, or, if in any particular case the Government so directs, after he has attained the age of twenty-five years.

Arrest of offender escaping from Borstal School, or escaping from supervision.

19. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal School, or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by license under Section 15, may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back to the Borstal School or to such authority, institution, society or person, as the case may be, and his license shall be forfeited with effect from the date of his escape.

PART IV.

Control and Management of Borstal Schools.

Management of Borstal Schools.

20. Subject to the orders of the Inspector-General and subject also to the rules made by the Government, the control and management of every Borstal School shall vest in a Superintendent appointed by the Government.

Constitution, powers and duties of Visiting Committees.

21. (1) (*a*) Every Visiting Committee appointed under sub-section (2) of Section 4 shall consist of the Sessions Judge, the District Magistrate, the District Educational Officer of the District in which the school is situated, and four non-official members appointed by the Government.

(*b*) The non-official members shall hold office for a period of two years, but shall be eligible for re-appointment on the expiry of that period.

(2) It shall be the duty of the Visiting Committee and its members—

(*a*) to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to;

(*b*) to make such suggestions for the improvement of the training therein as are considered necessary and to report to the Government or to the Inspector-General from time to time any matter, which in their opinion should receive attention and the annual progress of the school;

(*c*) to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive;

(*d*) to consider cases of release on license under sub-section (1) of Section 15 placed before them by the Superintendent; and

(*e*) to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.

(3) Subject to such rules as may be made in that behalf by the Government, every member of the Committee shall

be entitled to call for information from the Superintendent, to examine the records of the school, and to take such other action as he deems necessary for the due discharge of his duties.

Classification of inmates.

22. (1) The inmates of a Borstal School shall be divided by the Superintendent according to their industry and good conduct into four grades, namely—

(*a*) the penal grade,
(*b*) the ordinary grade,
(*c*) the star grade,
(*d*) the special star grade.

(2) The privileges of each grade shall be higher than those of the grade preceding, if any.

(3) Every inmate shall, on reception in a Borstal School, be placed in the ordinary grade.

(4) The Superintendent may promote or reduce any inmate from one grade to another in accordance with the provisions of sub-section (5), the rules made under this Act, and the general instructions of the Visiting Committee.

(5) Promotions and reductions shall be regulated by close personal observation of the inmates, and shall depend specially on their general behaviour, amenability to discipline and attention to instruction, both literary and industrial.

Punishments for offences.

23. (1) The punishments which may be inflicted on an inmate of a Borstal School for offences specified in the Prisons Act, 1943, and the rules made thereunder shall be in the following forms and in no other—

(i) formal warning,
(ii) extra drill,
(iii) deprivation of any of the privileges of the grade,
(iv) reduction in grade,
(v) penal diet, *i.e.*, restriction of diet in such manner and subject to such conditions as may be prescribed.

(2) No punishment shall be awarded to any inmate by any official of the school except by the Superintendent or in his absence the official exercising his functions.

(*Part IV—Control*)

Penalty for introduction or removal of prohibited articles.

24. Whoever, contrary to any rule under Section 27, introduces or removes, or attempts by any means whatever to introduce or remove, into or from any Borstal Institution, or supplies or attempts to supply to any inmate outside the limits of such institution any prohibited articles, and every officer of a Borstal Institution who, contrary to such rule, knowingly suffers any such articles to be introduced into or removed from any Borstal Institution to be possessed by any inmate, or to be supplied to any inmate outside the limits of a Borstal Institution, and whoever, contrary to any such rules, communicates or attempts to communicate with any inmate, and whoever abets any offence made punishable under this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months or to fine not exceeding two hundred rupees or to both.

Limitation of hours of work.

25. No inmate of a Borstal School shall be made to work for more than eight hours a day :

Provided that extra drill awarded as a punishment under sub-section (1) of Section 23 shall not be deemed, for the purposes of this section, to be work.

Probation officers.

26. (1) For every inmate released under sub-section (1) of Section 15 there shall be a probation officer appointed by the District Magistrate in consultation with the Borstal Association, if any, in the district wherein the school is situated or in the district wherein the inmate permanently resided at the time an order of detention was passed against him under Section 6.

(2) Two months prior to the release of any inmate, the Superintendent shall request the District Magistrate to appoint a suitable probation officer as provided in sub-section (1).

(3) The District Magistrate shall communicate all appointments of probation officers made under sub-section (1) to the Superintendent in sufficient time for the inmates concerned being informed of their respective probation officers before their release from the school.

Explanation.—For the purpose of this section, " District Magistrate " shall mean the District Magistrate of the

district in which the inmate permanently resided at the time an order of detention was passed against him under Section 6.

PART V.

RULES.

27. (1) The Government may make rules for the regulation and management of any Borstal School and for the carrying into effect of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(*a*) the control and management of Borstal Schools established under this Act;

(*b*) the appointment, powers and duties of officials in such schools;

(*c*) the constitution, powers and duties of Visiting Committees;

(*d*) the classification, control, discipline, training, instruction and treatment of offenders ordered to be detained in a Borstal School and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(*e*) the regulation of visits to, and communication with, offenders detained in such school;

(*f*) the restriction or prohibition of the supply to, or possession by offenders detained in such school of any specified articles or kinds of articles;

(*g*) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act, be ordered to be detained in such school;

(*h*) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

(*i*) the form and conditions of licenses granted under Section 15;

(*j*) the supervision of offenders after the expiration of the term of their detention;

(*k*) the transfer of incorrigible offenders from a Borstal School to prison.

(*l*) the manner of detention of the accused under arrest or remanded or committed for trial.

(3) All rules made under this Act shall be published in the official Gazette, and on such publication shall have the same effect as if enacted in this Act.

PART VI.

Appeal and Revision.

Appeal and revision.

28. (1) For the purposes of appeal and revision under the Code of Criminal Procedure, 1904, an order of detention under Section 6 of this Act, shall be deemed to be a sentence of imprisonment for the same period.

(2) Any person affected by an order of the Inspector-General under this Act may appeal to the Government, whose orders shall be final.

PART VII.

Miscellaneous.

Power of Government to discharge an inmate.

29. The Government may at any time order the discharge of an inmate of any Borstal School either absolutely or subject to such conditions as it may think fit.

Detention in Borstal School not to be deemed to be a disqualification.

30. The detention of an offender in a Borstal School shall not be deemed to be a disqualification attaching to a conviction for any offence.